

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

THE SAMUEL LAW FIRM

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Attorneys for Defendant

KEVIN YAN LUIS, on behalf of himself and
others similarly situated,

Plaintiffs,

- vs. -

AG Gear LLC,

Defendant.

CASE NO. 23-cv-8662

ANSWER

Defendant AG Gear LLC ("Defendant"), by and through its undersigned attorneys, answers the complaint of plaintiff Kevin Yan Luis ("Plaintiff") as follows:

INTRODUCTION

1. Defendant admits that Plaintiff brings the case on the described grounds, but denies that those grounds are accurate or that the case has any merit.
2. Defendant denies knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph.
3. This paragraph contains no allegations against Defendant which need be admitted or denied; to the extent a response is required, Defendant denies the allegations of this paragraph.

4. Defendant admits that Plaintiff brings the case on the alleged grounds: denied that Defendant has violated any applicable law as alleged by Plaintiff.
5. Admitted that Defendant operates the Aggearstore.com website; denied that the website contains any unlawful access barriers for the blind and/or visually impaired persons.
6. This paragraph contains no allegations against Defendant which need be admitted or denied; to the extent a response is required, Defendant denies the allegations of this paragraph.
7. Denied.
8. Denied that Defendant's website is inaccessible to blind persons; denied that Defendant has violated any applicable law as alleged.
9. This paragraph contains no allegations against Defendant which need be admitted or denied; to the extent a response is required, Defendant denies the allegations of this paragraph.
10. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
11. Denied.

JURISDICTION AND VENUE

12. Admitted.
13. Defendant admits that it conducts business in this district. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the remaining allegations of this paragraph, and therefore denies same.

14. Defendant admits that it conducts business in this district; the remaining allegations of this paragraph are denied.

PARTIES

15. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.

16. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.

17. Admitted that defendant is a Tennessee limited liability company doing business in the State of New York.

18. Defendant admits to operating Aggearstore.com but denies the remaining allegations of this paragraph.

NATURE OF THE CASE

19. This paragraph contains no allegations against Defendant which need be admitted or denied; to the extent a response is required, Defendant denies the allegations of this paragraph.

20. This paragraph contains no allegations against Defendant which need be admitted or denied; to the extent a response is required, Defendant denies the allegations of this paragraph.

21. This paragraph contains no allegations against Defendant which need be admitted or denied; to the extent a response is required, Defendant denies the allegations of this paragraph.

22. This paragraph contains no allegations against Defendant which need be admitted or denied; to the extent a response is required, Defendant denies the allegations of this

paragraph.

23. Defendant admits the specified WCAG Guidelines have been published, but is without knowledge or information sufficient to form an opinion as to the truth of the remaining allegations of this paragraph, and therefore denies same.

FACTUAL ALLEGATIONS

24. Admitted that Defendant owns and operates Aggearstore.com.
25. Admitted that Defendant's website offers good for sale to the public.
26. Admitted.
27. Denied.
28. Denied.
29. Denied.
30. Denied.
31. Denied.
32. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.
33. Denied that Defendant's website design is inaccessible to blind users.
34. Denied that Defendant's website design is inaccessible to blind users.
35. Denied.
36. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph relating to Plaintiff's alleged attempts to complete a purchase as alleged, and therefore denies same; denied that Defendant's website is inaccessible.
37. Defendant is without knowledge or information sufficient to form an opinion as to

the truth of the allegations of this paragraph, and therefore denies same.

38. Denied that Defendant's website contains access barriers as alleged; Defendant is without knowledge or information sufficient to form an opinion as to the truth of the remaining allegations of this paragraph, and therefore denies same .

39. Denied.

40. Denied

41. Denied

42. Denied

CLASS ACTION ALLEGATIONS

43. Admitted that Plaintiff seeks certification of a nationwide class as specified; denied that such certification is appropriate.

44. Admitted that Plaintiff seeks certification of a nationwide class as specified; denied that such certification is appropriate.

45. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.

46. Denied.

47. Admitted as to (a) and (b); denied as to (c) and (d).

48. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.

49. Denied.

50. Denied.

51. Denied.

52. This paragraph contains no allegations against Defendant which need be admitted or denied; to the extent a response is required, Defendant denies the allegations of this paragraph.

FIRST CAUSE OF ACTION

53. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-52 as if fully set forth herein.

54. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

55. This paragraph states a legal conclusion, which need not be admitted or denied.

56. This paragraph states a legal conclusion, which need not be admitted or denied.

57. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

58. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

59. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

60. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

61. Denied that Defendant's website is inaccessible; Defendant is without knowledge or information sufficient to form an opinion as to the truth of the remaining allegations of this paragraph and therefore denies same.

62. Denied.

63. Denied that Defendant has committed any discriminatory conduct or that any alleged violations are ongoing.

64. Denied.

65. Denied.

66. Denied.

67. Denied .

68. Admitted that Plaintiff seeks the specified relief; denied that Plaintiff is entitled to it.

SECOND CAUSE OF ACTION

69. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-68 as if fully set forth herein.

70. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

71. This paragraph states a legal conclusion, which need not be admitted or denied.

72. This paragraph states a legal conclusion, which need not be admitted or denied.

73. Denied.

74. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

75. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

76. Denied that Defendant's website is inaccessible; Defendant denies knowledge or information sufficient to form an opinion as to the truth of the remaining allegations of this paragraph.

77. Denied

78. Denied that Defendant has committed any discriminatory conduct or that any alleged violations are ongoing.

79. Denied.

80. Denied.

81. Denied.

82. Denied.

83. Admitted that Plaintiff seeks the specified relief; denied that Plaintiff is entitled to it.

THIRD CAUSE OF ACTION

84. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-83 as if fully set forth herein.

85. Defendant is without knowledge or information sufficient to form an opinion as to the truth of the allegations of this paragraph, and therefore denies same.

86. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

87. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.

88. This paragraph states a legal conclusion, which need not be admitted or denied.

89. Admitted that Defendant owns and operates the specified website; The remaining part of this paragraph states a legal conclusion, which need not be admitted or denied

90. Denied.

91. Denied that Defendant's website is inaccessible; Defendant denies knowledge or information sufficient to form an opinion as to the truth of the remaining allegations of this paragraph.
92. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.
93. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.
94. Denied that Defendant has committed any discriminatory conduct or that any alleged violations are ongoing.
95. Denied.
96. Admitted that Plaintiff seeks the specified relief; denied that Plaintiff is entitled to it.

FOURTH CAUSE OF ACTION

97. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-96 as if fully set forth herein
98. Admitted that this is generally an accurate summary of the law, subject to various statutory defenses and exceptions.
99. This paragraph states a legal conclusion, which need not be admitted or denied.
100. This paragraph states a legal conclusion, which need not be admitted or denied.
101. Denied.
102. Denied.
103. Denied that Defendant has committed any discriminatory conduct or that

any alleged violations are ongoing.

- 104. Denied.
- 105. Denied.
- 106. Denied.
- 107. Denied.
- 108. Admitted that Plaintiff seeks the specified relief; denied that Plaintiff is entitled to it.

FIFTH CAUSE OF ACTION

- 109. Defendant repeats, reiterates, and incorporates by reference its responses to all allegations in all preceding paragraphs 1-108 as if fully set forth herein.
- 110. Admitted that Plaintiff contends by his Complaint that Defendant has violated the ADA, which allegation is denied.
- 111. Denied.

AFFIRMATIVE DEFENSES

- 1. Plaintiff lacks standing to bring these claims.
- 2. Plaintiff's allegations fail to state a claim upon which relief may be granted.
- 3. Plaintiff's claims are moot.
- 4. Plaintiff's claims are barred by the doctrine of unclean hands.
- 5. The court should not exercise supplemental jurisdiction over the non-federal claims in this suit.

The relief requested by Plaintiff would not be readily achievable.

6. Plaintiff was not a bona fide customer of defendant.
7. Plaintiff is barred from recovery by reason of the fact that plaintiff has not sustained any damages whatsoever resulting from the actions or inactions of defendant.
8. Part or all of Plaintiff's damages — if any — are the result of plaintiff's failure to mitigate damages.
9. Plaintiff is not entitled to statutory or punitive damages or fines.
10. Plaintiff is unable to satisfy the criteria for maintaining a class action. The potential class and subclasses are not numerous or ascertainable. The questions of law or fact are not common to the potential class or subclasses. The claims of the plaintiff are not typical of the claims of the potential class or subclasses. The interests of the potential class and subclasses will not be fairly and adequately represented. Individual issues predominate over common issues.
11. In addition to the foregoing defenses, Defendant reserves the right to amend its Answer to raise any and all other additional affirmative and other defenses that may become evident during discovery and during any other proceeding in this action or pursue any available counterclaims against Plaintiff as those claims become known during this litigation.

Wherefore, defendant respectfully demands judgment against plaintiff dismissing all counts of the Complaint, and awarding attorneys' fees, costs and disbursements, and such other, further, and different relief as the Court may deem just and proper.

Dated: January 8, 2023

_____/s/ *Michael Samuel*_____

Michael Samuel

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212.563.9884

Attorneys for Defendant